



JOHN M. O'CONNOR  
ATTORNEY GENERAL

**ATTORNEY GENERAL OPINION  
2022-41A**

Marty Hendrick, Executive Director  
Oklahoma State Board of Pharmacy  
2920 N. Lincoln Blvd., Suite A  
Oklahoma City, OK 73105

October 20, 2022

Re: OKCITY RX, L.L.C, Case No. 1652

Dear Executive Director Hendrick:

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Pharmacy intends to take in Case No. 1652.

The Oklahoma Pharmacy Act authorizes the Board to regulate the practice of pharmacy. 59 O.S.2021, § 353.7. Specifically, “[t]he State Board of Pharmacy may . . . revoke permanently or suspend any certificate, license or permit issued pursuant to the Oklahoma Pharmacy Act or reprimand or place on probation any holder of a certificate, license, or permit who . . . violates any provision of the Uniform Controlled Dangerous Substances Act” or “[c]onducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy,” or due to “incapacity of a nature that prevents such a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public.” *Id.* § 353.26(A)(1)(b), (e) & § 353.16A. Under 59 O.S.2021, § 353.7(12), the Board may also institute a fine of up to \$3,000.00 per count.

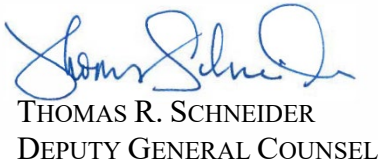
Respondent is a licensed pharmacy located in Oklahoma City. According to a Board complaint, alleging a total of 281,918 counts spanning from August 2020 through May 2022, Respondent violated Board statutes and administrative rules by (1) failing to supervise all employees as it relates to the practice of pharmacy; (2) failing to retain a pharmacist in charge; (3) failing to possess a current, valid Board-issued resident retail pharmacy license, located in Oklahoma, prior to participating in shared services; (4) offering the pharmacy and its services as a “pick-up” station or intermediary for prescribing filling or delivery, whether for profit or gratuitously, to the public; (5) permitting the practice of pharmacy by a person other than a licensed pharmacist or assistant pharmacist; (6) subverting the authority of the pharmacist-in-charge of the pharmacy by impeding the management of the prescription department to act in compliance with federal and state law; (7) failure to conduct business in conformity with all federal, state, and municipal laws at all times; and (8) failure to have a licensed pharmacist in charge of the pharmacy who shall be responsible for all aspects of the operation related to the practice of pharmacy, including the proper display of all licenses. *See* OAC 535:15-3-2; 535:15-3-2(b)(2); OAC 535:15-3-2.1(b); 59 O.S.2021,

§ 353.24(A)(4); 59 O.S. 2021, § 353.24(B)(5); 59 O.S.2021, § 353.24(B)(6); OAC 535:25-7-3(a); and OAC 535:15-3-2(b)(1)(D). The Board proposes to revoke Respondent's license and to impose a fine against the Respondent in the amount of \$28,191,800.00 (or \$100.00 per count), due immediately. Respondent's failure to abide by the terms of the Board's Order may result in further disciplinary action. The Board may reasonably believe the proposed action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy has adequate support for the conclusion that this action advances the State's policy to protect public health, safety, and welfare.



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